

~~2/20/02~~ ORIGINAL*8/21/02*

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

SHAWN JORDAN,	:	
	:	
Plaintiff	:	
	:	
v.	:	No. 1:CV-00-1387
	:	(Judge Caldwell)
DAVID J. WAKEFIELD, et al.,	:	
	:	
Defendants	:	

*FILED
HARRISBURG, PA
AUG 22 2002*

*MARY E. LANCHFORD
Per JW Deputy Clerk*

**DEFENDANTS' MOTION FOR LEAVE
TO SUBSTITUTE AMENDED SUPPORTING DOCUMENTS**

Defendants, by their attorneys, hereby move the Court for leave to substitute an amended brief in support of their motion for summary judgment and in opposition to plaintiff's motion for partial summary judgment and amended supporting documents for the ones previously filed in the above-captioned case.

In support of their motion, the defendants state the following:

1. This is an action by a state prisoner alleging that his exposure to second-hand smoke constitutes cruel and unusual treatment.
2. In June, 2002, plaintiff moved for partial summary judgment.
3. In response to plaintiff's motion, defendants moved for summary judgment on all plaintiff's claims and submitted one brief which both supported

their motion and opposed plaintiff's motion. Defendants also filed four declarations in support of their motion for summary judgment. The supporting declarations were unsigned because the signed ones had not been received in time to file them with the other documents.

4. Subsequently, Counsel for the defendants began receiving in the mail the signed declarations. Counsel for the defendants has only yesterday received in the mail the last signed declaration.

5. However, the signed declarations differ from those filed on July 22, 2002 with defendants' brief.

6. Because the brief defendants filed is based, in part, upon information contained in declarations which are not accurate and were unsigned, defendants seek leave to substitute both the amended, signed declarations and an amended brief.

7. Granting this motion will facilitate the court's disposition of the claims presented in this case and will not unduly inconvenience the plaintiff.

WHEREFORE, defendants ask the Court to grant their motion and permit them to substitute amended supporting documents for the ones previously filed.

Respectfully submitted,

D. MICHAEL FISHER
Attorney General

By:


GWENDOLYN T. MOSLEY
Senior Deputy Attorney General

SUSAN J. FORNEY
Chief Deputy Attorney General
Chief, Litigation Section

OFFICE OF ATTORNEY GENERAL
15th Floor, Strawberry Square
Harrisburg, PA 17120
717-787-1180

DATE: August 20, 2002

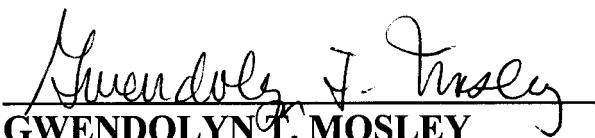
IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

SHAWN JORDAN,	:
	:
	:
Plaintiff	:
	:
	:
v.	:
	:
	:
DAVID J. WAKEFIELD, et al.,	:
	:
	:
Defendants	:

CERTIFICATE OF SERVICE

I, Gwendolyn T. Mosley, Senior Deputy Attorney General, hereby certify
that on this date I caused to be served the foregoing, **Defendants Motion for
Substitution** by depositing a copy of it in the United States mail, postage prepaid,
in Harrisburg, PA., addressed to the following:

Shawn Jordan, #BI-8942
SCI-Rockview
Box A
Bellefonte, PA 16823-0820


GWENDOLYN T. MOSLEY
Senior Deputy Attorney General

DATE: August 20, 2002